

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

| | | |
|-------------------------------------|---|----------------------|
| SERENA MCDERMOTT and |) | |
| JENNIFER GENTRY on behalf of |) | |
| themselves and all others similarly |) | |
| situated, |) | |
| |) | |
| Plaintiffs, |) | No. 4:99-CV 0001-HLM |
| |) | |
| vs. |) | COLLECTIVE ACTION |
| |) | |
| CRACKER BARREL OLD COUNTRY |) | |
| STORE, INC., |) | |
| |) | |
| Defendant. |) | |
| |) | |

SECOND JOINT MOTION FOR PRELIMINARY APPROVAL, *NUNC PRO TUNC*, OF REVISED SETTLEMENT AGREEMENT, PROPOSED NOTICE, AND RELEASE AND AN ORDER AUTHORIZING ISSUANCE OF REVISED NOTICE OF SETTLEMENT

Plaintiffs and Defendant file this second joint motion for preliminary approval, *nunc pro tunc*, of the revised Settlement Agreement attached as Exhibit A, the Notice attached as Exhibit B, and the Release attached as Exhibit C as attachments to the May 27, 2005 Joint Motion for an Order Preliminarily Approving Settlement and Authorizing Issuance of Notice of Settlement. The attached versions of these documents have been revised from the previous attachments to reflect the employment of the Settlement Administrator to facilitate mailings to Plaintiffs, to reflect updated employee

information regarding Plaintiffs, to amend language regarding sworn testimony in the Release, and to clarify the responsibilities of both objecting and non-objecting Plaintiffs. All changes have been agreed upon by counsel for the parties and are reflected in redline for the Court's convenience. The parties therefore respectfully request expedited approval of the following minor changes so that notice can be issued as soon as possible:

The changes made include:

- 1) addition of information regarding the Settlement Administrator to facilitate mailings to Plaintiffs prior to the Court's Fairness Hearing;
- 2) updating of employee information regarding Plaintiffs;
- 3) substitution of language at the end of the Release indicating "I declare under penalty of perjury that the foregoing is true and correct" for the previous language regarding a notary public;
- 4) additional information to be included in the Notice sent to employees not receiving payment under the Settlement Agreement;
- 5) addition of language in the "Court Approval of the Settlement" section in the Notice of Settlement to clarify that a non-objecting Plaintiff must submit a Release and that an objecting Plaintiff must swear to the objections before a notary public; and

- 6) a Fairness Hearing date of October 18, 2005 at 10:00 a.m. to allow sufficient time for the Settlement Administrator to send copies of the approved Notice.

The parties respectfully request an expedited ruling on this motion regarding minor changes so that the Notice can be issued as expeditiously as possible.

Respectfully submitted this 17th day of August, 2005.

s/ Robert F. Childs, Jr.

(CAM by permission)

Robert F. Childs, Jr. Esq.

Alabama Bar No. ASB2223-C-60R

Herman N. Johnson, Jr., Esq.

Alabama Bar No. ASB3607-R-50J

Wiggins, Childs, Quinn & Pantazis,
LLC

The Kress Building

301 Nineteenth St., North

Birmingham, AL 35203

s/ Tracey T. Barbaree

(CAM by permission)

R. Lawrence Ashe, Jr., Esq.

Georgia Bar No. 024500

Tracey T. Barbaree, Esq.

Georgia Bar No. 036792

Ashe, Rafuse, & Hill LLP

1355 Peachtree St. NE

Atlanta, GA 30309

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

SERENA MCDERMOTT and)
JENNIFER GENTRY on behalf of)
themselves and all others similarly)
situated,)

Plaintiffs,)

vs.)

CRACKER BARREL OLD COUNTRY)
STORE, INC.,)

Defendant.)

No. 4:99-CV 0001-HLM

COLLECTIVE ACTION

This is to certify that on August 17, 2005, I caused to be served a copy of the foregoing SECOND JOINT MOTION FOR PRELIMINARY APPROVAL, NUNC PRO TUNC, OF REVISED SETTLEMENT AGREEMENT, PROPOSED NOTICE, AND RELEASE as ATTACHMENTS TO THE MAY 27, 2005 JOINT MOTION FOR AN ORDER PRELIMINARILY APPROVING SETTLEMENT AND AUTHORIZING ISSUANCE OF NOTICE OF SETTLEMENT

electronically through the CM/ECF system to the following counsel of record:

Robert F. Childs, Jr. Esq.
Herman N. Johnson, Jr., Esq.
Wiggins, Childs, Quinn & Pantazis, LLC
The Kress Building
301 Nineteenth St., North
Birmingham, AL 35203

s/ Tracey T. Barbaree (CAM by permission)
Counsel for Defendant

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

| | | |
|-------------------------------------|---|----------------------|
| SERENA MCDERMOTT and |) | |
| JENNIFER GENTRY on behalf of |) | |
| themselves and all others similarly |) | |
| situated, |) | |
| |) | |
| Plaintiffs, |) | No. 4:99-CV 0001-HLM |
| |) | |
| vs. |) | COLLECTIVE ACTION |
| |) | |
| CRACKER BARREL OLD COUNTRY |) | |
| STORE, INC., |) | |
| |) | |
| Defendant. |) | |

EXHIBIT LIST

Exhibit A – Full and Final Settlement Agreement of All Claims

Exhibit B – Notice of Settlement

Exhibit C – Notice of Settlement Highlighted

Exhibit D – Notice of Settlement - Not Employed

Exhibit E - Notice of Settlement – Late Filing

Exhibit F - Release